

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maryann Wong	Team: Team # 2	CCRB Case #: 201102773	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/01/2011 12:30 AM	Location of Incident: § 87(2)(b) § 87(2)(b)	Precinct: 28	18 Mo. SOL 7/1/2012	EO SOL 7/1/2012	
Date/Time CV Reported Thu, 03/03/2011 5:42 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 03/03/2011 5:42 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DI Rodney Harrison	00000	901066	028 PCT
2. POM James Longo	31565	932915	028 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Francis Zito	00022	942746	028 PCT
2. SGT Roberto Coppola	00903	925116	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM James Longo	Abuse: PO James Longo threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.DI Rodney Harrison	Abuse: DI Rodney Harrison supervised the entry and search of § 87(2)(b) § 87(2)(b) in Manhattan.	§ 87(2)(b)
C.POM James Longo	Abuse: PO James Longo threatened to use force against § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
D.DI Rodney Harrison	Abuse: DI Rodney Harrison threatened to arrest § 87(2)(b)	§ 87(2)(b)

## Case Summary

On March 3, 2011, § 87(2)(b) filed a complaint with the CCRB via the on-line website (encl. 3A-G).

On January 1, 2011, around 12:00 a.m., officers entered and searched § 87(2)(b)'s home at § 87(2)(b), § 87(2)(b) in Manhattan. § 87(2)(b)'s son, § 87(2)(b) § 87(2)(b) was arrested for criminal possession of two weapons, criminal use of a firearm, an unlawful body vest, possession of marijuana, assault and criminal mischief. The following allegations resulted from the officers' actions.

- **Allegation A – Abuse of Authority: PO James Longo threatened to arrest** § 87(2)(b) § 87(2)(b), § 87(2)(g)
- **Allegation B – Abuse of Authority: DI Rodney Harrison supervised the entry and search of** § 87(2)(b) § 87(2)(b) **in Manhattan.** § 87(2)(g)
- **Allegation C – Abuse of Authority: PO James Longo threatened to use force against** § 87(2)(b) § 87(2)(b), § 87(2)(g)
- **Allegation D – Abuse of Authority: DI Rodney Harrison threatened to arrest** § 87(2)(b) § 87(2)(b), § 87(2)(g)

## Results of Investigation

### Civilian Statements

#### Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

### CCRB Testimony

On March 9, 2011, § 87(2)(b) was interviewed at the CCRB (encl. 4A-F).

On January 1, 2011, around 1:00 a.m., § 87(2)(b) was at home at § 87(2)(b) § 87(2)(b) in Manhattan. § 87(2)(b)'s son, § 87(2)(b) § 87(2)(b) and his girlfriend, § 87(2)(b) returned home. § 87(2)(b) does not get along with § 87(2)(b) § 87(2)(b) and she has had physical altercations with her in the past. A physical altercation between § 87(2)(b) § 87(2)(b) and § 87(2)(b) ensued; specifically § 87(2)(b) and § 87(2)(b) § 87(2)(b) “tousled” with one another by grabbing each other’s shoulders. § 87(2)(b) § 87(2)(b) left the location without any injuries.

Shortly after this, § 87(2)(b) went to the store to get some cigarettes and then returned home. § 87(2)(b) assumed that § 87(2)(b) was not home, but she stated that § 87(2)(b) always leaves his door closed and locked, so it was unclear whether or not he was home.

Shortly before 2:00 a.m., four officers knocked on the front door: DI Rodney Harrison, PO Francis Zito, PO James Longo, all identified via investigation, and a fourth, unidentified male

officer, § 87(2)(b) put the chain on her door and opened it. DI Harrison asked § 87(2)(b) if § 87(2)(b) was home. PO Zito told § 87(2)(b) that he saw a shadow behind her door (insinuating that § 87(2)(b) was in the apartment). § 87(2)(b) told the officers that her son was not home, but they did not believe her.

§ 87(2)(b)'s daughter, § 87(2)(b) called her and § 87(2)(b) answered the phone. § 87(2)(b) told her daughter what was happening. PO Longo<sup>1</sup> said, "Shut the fuck up," and told § 87(2)(b) that he was going to arrest her for obstruction of governmental administration. § 87(2)(b) hung up the phone.

§ 87(2)(b) told the officers repeatedly that her son was not there, but the officers replied that they knew he was in the apartment. § 87(2)(b) said, willingly, that the officers could enter the apartment and look for § 87(2)(b). When the officers entered, all four officers drew their guns but did not point them.

§ 87(2)(b)'s door was locked and the officers said that they needed to open the door. § 87(2)(b) explained that § 87(2)(b)'s door is always locked. When § 87(2)(b) tried to exit her room to see what was happening, DI Harrison pushed her back so that she did not interfere.

PO Longo, who was grinning, told § 87(2)(b) "If I catch him, I will kill him." § 87(2)(b) told PO Longo that he was not nice. An officer § 87(2)(b) did not recall which one later told § 87(2)(b) that PO Longo was joking when he made this comment, but § 87(2)(b) did not appreciate the joke.

§ 87(2)(b) entered the apartment. The officers told § 87(2)(b) that they needed to go inside § 87(2)(b)'s room. § 87(2)(b) gave the officers permission to enter the room. § 87(2)(b) willingly allowed her daughter to give the officers' permission. § 87(2)(b) did not witness the opening of § 87(2)(b)'s door, but she believed that § 87(2)(b) opened the door for the officers.

§ 87(2)(b) was not inside the room and the officers said that he had gotten away through the window and onto the fire escape. DI Harrison told § 87(2)(b) that he should arrest her because she had known § 87(2)(b) was home and had let him get away. § 87(2)(b) denied knowing this information.

Over the radio, § 87(2)(b) heard that officers found and arrested § 87(2)(b). DI Harrison asked § 87(2)(b) if the officers could search § 87(2)(b)'s room. § 87(2)(b) did not want to let DI Harrison search § 87(2)(b)'s room. DI Harrison continually told § 87(2)(b) that he would arrest her if she did not comply with his investigation. § 87(2)(b) consented to the search because she was worried that DI Harrison would arrest her if she did not agree. § 87(2)(b) felt threatened and forced to sign the permission to consent form.

The officers searched § 87(2)(b)'s room with § 87(2)(b) present in the room. § 87(2)(b) was not present for the search; she sat in her room.

### **Consent Form (encl. 4D)**

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<sup>1</sup> In her initial complaint on the on-line website, § 87(2)(b) alleged that DI Harrison made these comments to her. During her interview, she confirmed that it was PO Longo.

§ 87(2)(b) filled out two identical consent forms; one of the forms was given to the officers and the other form she kept for herself. The consent form notes the following: *On January 1, 2011, at 2:10, § 87(2)(b) § 87(2)(b) who resides at § 87(2)(b) § 87(2)(b) do give permission to the 28<sup>th</sup> Precinct to search my residence.*

After the officers left, § 87(2)(b) wrote the following additional information at the bottom of the form: *The reason why I let them in his room is because they threatened my life. PO Longo said that if he caught him he is going to kill him with a big smile on his face. Officer Harrison did not believe me that he was not in the apartment with me. He pushed me and said that he would arrest me if I did not cooperate with him, so I did.*

**Witness:** § 87(2)(b)

- § 87(2)(b)

### **CCRB Testimony**

On March 9, 2011, § 87(2)(b) was interviewed at the CCRB (encl. 5A-E).

Around 12:30 a.m., § 87(2)(b) called § 87(2)(b) who told her that officers were at the house. § 87(2)(b) heard a male voice state, “Shut the fuck up and sit down.” § 87(2)(b) hung up the phone and went to her mother’s house.

When § 87(2)(b) arrived, there were four officers inside the living room area. § 87(2)(b) asked which officer told her mother to “shut the fuck up and sit down.” DI Harrison, who identified himself to § 87(2)(b) told her that he was the one who was talking to her mother and that he never used that language. DI Harrison explained that someone called 911 because § 87(2)(b) was in the lobby with a gun. PO Harrison said that § 87(2)(b) had gone downstairs and pointed a gun into the peephole of § 87(2)(b)<sup>2</sup> apartment.

The officers wanted to know why § 87(2)(b)’s bedroom door was locked. § 87(2)(b) informed the officers that § 87(2)(b)’s door is always locked whether he is home or not. Two unidentified officers pointed their guns at § 87(2)(b)’s door.

§ 87(2)(b) did not have a key to § 87(2)(b)’s room, but thought that one of her keys might work on the door. § 87(2)(b) tried all her keys on the door, but she was unable to get inside. PO Zito asked if he could kick in the door. § 87(2)(b) replied that she could not give him the authorization to do this because she did not live at the residence. § 87(2)(b) told PO Zito to ask her mother.

§ 87(2)(b) told § 87(2)(b) that she was upset because PO Longo told her that he was going to kill § 87(2)(b). § 87(2)(b) told her mother to calm down. § 87(2)(b) asked her mother if the officers could kick down the door. § 87(2)(b) said that she had nothing to hide and that it was okay if they kicked down the door.

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<sup>2</sup> § 87(2)(b) has a history with Mr. § 87(2)(b). In September of 2010, Mr. § 87(2)(b) and Ms. § 87(2)(b) had a physical altercation and Ms. § 87(2)(b) called the police in regards. Mr. § 87(2)(b) was upset and told Ms. § 87(2)(b) to mind her own business. Mr. § 87(2)(b) went to Ms. § 87(2)(b) apartment and Ms. § 87(2)(b) or her boyfriend fired a gun at Mr. § 87(2)(b) through the door. However, Ms. § 87(2)(b) told the police that Mr. § 87(2)(b) was the one who fired a gun at her. Mr. § 87(2)(b) was ultimately charged with burglary for this incident, but Nicole § 87(2)(b) did not know why.

PO Zito kicked down the door, but § 87(2)(b) was not in the room. The officers said that they knew § 87(2)(b) had been in the room. § 87(2)(b) heard, over the radio, that an officer found § 87(2)(b). All the officers ran out of the house. § 87(2)(b) went outside and saw § 87(2)(b) in handcuffs with a lot of officers around him.

DI Harrison said that he could lock § 87(2)(b) up because she had known § 87(2)(b) was in the house and had let him get away. § 87(2)(b) explained that § 87(2)(b) never knows when § 87(2)(b) is in the house because his door is always closed. PO Zito said that they had to search § 87(2)(b)'s room for a gun, since that was what the call had been about. DI Harrison told § 87(2)(b) that he would arrest her unless she allowed the officers to search § 87(2)(b)'s room.

PO Zito had § 87(2)(b) write a consent form that § 87(2)(b) signed. § 87(2)(b) signed the form because PO Harrison threatened to arrest her. PO Zito and Sgt. John Tancredi, who was identified via investigation, searched § 87(2)(b)'s room and § 87(2)(b) watched them.

The officers found § 87(2)(b)'s gun in his dresser. They also found § 87(2)(b)'s friend's gun in a bag. This friend (name unknown) had been staying with § 87(2)(b). When PO Zito looked through the friend's bag, which also had documents inside, he told Sgt. Tancredi, "Hey, is this the same motherfucker that spit in my face last week?" § 87(2)(b) did not take offense to this language because it was not directed at her.

After the search, the officers called a forensic-type unit to take pictures of § 87(2)(b)'s room. The officers left the house around 3:45 a.m.

### **Civilians not Interviewed**

§ 87(2)(b) was not a victim or a witness of the allegations so the investigation deemed it unnecessary to interview him.

### **NYPD Statements**

#### **Subject Officer: DEPUTY INSPECTOR RODNEY HARRISON**

- *DI Harrison is a § 87(2)(b).*
- *On December 31, 2010, DI Harrison worked from 11:00 p.m. to 7:00 a.m. the following day, was assigned as the Duty Inspector, worked with PO Zito, dressed in uniform and was assigned to a marked vehicle.*

#### **Memo Book**

DI Harrison does not keep a memo book.

### **CCRB Testimony**

On April 20, 2011, DI Harrison was interviewed at the CCRB (encl. 6A-C).

DI Harrison responded to a 911 call regarding an assault with a firearm at § 87(2)(b). DI Harrison and PO Zito spoke with the female 911 caller, who lived in § 87(2)(b). The female 911 caller informed the officers that she had just had an adversarial conversation with a § 87(2)(b) who was holding a firearm and threatened to shoot her. The female 911 caller

informed the officers that she and § 87(2)(b) had a history of confrontations. The female 911 caller described § 87(2)(b) by his name, his race (black) and his residence (§ 87(2)(b) DI Harrison, PO Zito, PO Longo and a fourth officer, who DI Harrison could not recall, went to § 87(2)(b). From the time that the 911 caller called in the altercation, to the time the officers got to § 87(2)(b)'s apartment, about two minutes had elapsed.

§ 87(2)(b) opened the door and DI Harrison spoke with her for about 15 minutes. DI Harrison heard some noise in the apartment, so he knew that there was another person in the apartment. DI Harrison asked § 87(2)(b) if § 87(2)(b) was home, if she knew about the altercation that had happened downstairs and if she was in danger. § 87(2)(b) stated that her son was not home and complained about the neighbors who lived below her; § 87(2)(b) said that her neighbors made up stories.

No officer used profanity; specifically no officer ever told § 87(2)(b) to “shut the fuck up.” No officer told § 87(2)(b) that she could be arrested. § 87(2)(b) could not have been arrested for any offense at this point.

§ 87(2)(b) denied that her son was there and DI Harrison told her that he heard noise coming from the apartment and that he knew that he was inside. PO Zito informed DI Harrison that he heard something. DI Harrison did not remember if PO Zito saw anything.

DI Harrison wanted to make sure that § 87(2)(b) was not being held captive and also wanted to make sure that § 87(2)(b) was not in the apartment. Finally, § 87(2)(b) let the officers in on her own free will. DI Harrison believed that § 87(2)(b) finally decided to let officers in because she became frustrated that the officers were repeatedly asking for entry in order to ensure her safety.

The officers entered the apartment with their guns out and looked inside the rooms for § 87(2)(b). § 87(2)(b)'s bedroom was in the back of the apartment and his door was locked. The officers knocked on § 87(2)(b)'s door but no person answered. DI Harrison did not remember hearing anything behind the door, but he recalled that PO Zito informed him that he saw some kind of movement underneath the door.

§ 87(2)(b) arrived into the apartment and spoke with § 87(2)(b). § 87(2)(b) had some kind of condition, possibly high blood pressure, and § 87(2)(b) calmed her down. § 87(2)(b) acted as a mediator between the officers and § 87(2)(b). § 87(2)(b) never tried to physically interfere and at no point did DI Harrison have to push her back.

§ 87(2)(b) talked her mother into being cooperative with the officers. § 87(2)(b) willingly granted the officers into § 87(2)(b)'s room. DI Harrison could not remember who opened § 87(2)(b)'s door, but he believed that § 87(2)(b) opened it with a key. Right before the officers entered, DI Harrison did not recall if the officers received any information over the radio.

The officers entered § 87(2)(b)'s room and observed that his window was open as well as the door of the fire escape. DI Harrison looked out the window and observed § 87(2)(b) running from the fire escape into the backyard. The officers radioed this information and DI Harrison's officers (he did not remember which ones) surrounded and apprehended § 87(2)(b).

While in the bedroom, DI Harrison did not see any weapons in plain view and he did not remember if PO Zito informed him about any weapons which were in plain view. Immediately after § 87(2)(b) was apprehended, DI Harrison asked § 87(2)(b) for consent to search § 87(2)(b)'s room. § 87(2)(b) was cooperative and immediately compliant. DI Harrison never told § 87(2)(b) that he would arrest her if she did not let the officers search the room. DI Harrison never informed § 87(2)(b) that she could be arrested for lying about her son. § 87(2)(b) signed the consent form on her own free will. § 87(2)(b) could not have been arrested for any offense.

PO Zito and Sgt. John Tancredi (who showed up specifically for the search) recovered a 357 magnum and a small caliber gun in § 87(2)(b)'s room.

DI Harrison did not witness any conversation PO Longo had with § 87(2)(b). DI Harrison never heard PO Longo threaten to kill § 87(2)(b).

**Witness Officer: OFFICER FRANCIS ZITO**

- PO Zito is a § 87(2)(b).
- On January 1, 2011, PO Zito worked from 5:30 p.m. to 2:05 a.m. the following day, was assigned as DI Harrison's operator, dressed in uniform and was assigned to a § 87(2)(b) vehicle.

**Memo Book**

At 2:04 a.m., 10-10, 52 (dispute with a firearm), § 87(2)(b). At 3:04 a.m., one under at rear of § 87(2)(b). At 3:55 a.m., show-up at 28<sup>th</sup> Precinct, positive. At 4:00 p.m., defendant made phone call to § 87(2)(b) sister, stated, "I told my ma not to open door."

**CCRB Testimony**

On March 29, 2011, PO Zito was interviewed at the CCRB (encl. 7A-F). PO Zito's testimony was consistent with DI Harrison's statement. He made the following exceptions.

PO Zito testified that only he and DI Harrison entered the apartment. Two additional officers were with DI Harrison and PO Zito when they knocked on § 87(2)(b)'s door, but PO Zito could not remember who they were. These officers were instructed to go to the roof of the building before DI Harrison and PO Zito entered the apartment. PO Zito did not know what PO Longo's role was during the incident, but he knew that PO Longo never went inside the apartment.

When § 87(2)(b) opened the door, PO Zito saw, at the crack of the door, a shadow or silhouette of a person. PO Zito asked § 87(2)(b) who the person was behind the door and she replied that she was the only individual inside the apartment. DI Harrison did most of the talking, but PO Zito interjected a couple times because of what he observed.

When § 87(2)(b) opened the door, PO Zito heard footsteps running towards a room and heard a door lock. When the officers approached § 87(2)(b)'s room, PO Zito heard movement behind the door.

§ 87(2)(b) arrived and handed keys to PO Zito; however, as soon as she did this, officers radioed that § 87(2)(b) was jumping out of his window and got onto the fire escape.

§ 87(2)(b) willingly gave the officers consent to open the door. PO Zito breached the door to the room. PO Zito breached it by himself because the door was not very heavy. PO Zito observed § 87(2)(b) jumping down the fire escape and he radioed this information.

In the room, in plain view, PO Zito observed the shell of a 357 gun bullet on § 87(2)(b)'s bureau. PO Zito also observed in plain view the butt of a handgun inside the bureau underneath clothes. PO Zito did not know if DI Harrison saw these things, but he informed DI Harrison of this.

PO Zito told § 87(2)(b) what he observed and § 87(2)(b) was in a state of shock. PO Zito and DI Harrison asked § 87(2)(b) for consent to search the room and § 87(2)(b) gave consent on her own free will. DI Harrison never told § 87(2)(b) that he would arrest her if she did not consent. PO Zito did not recall if § 87(2)(b) was told that she could be arrested for lying. However, PO Zito believed that this is an offense that one can be arrested for.

**Subject Officer: OFFICER JAMES LONGO**

- *PO Longo is a § 87(2)(b).*
- *On December 31, 2010, PO Longo worked from 7:00 p.m. to 3:35 a.m. the following day, was assigned to mobile response, worked with Sgt. Roberto Coppola, dressed in uniform and was assigned to a marked van.*

**Memo Book**

PO Longo did not have any memo book entries regarding the incident.

**CCRB Testimony**

On March 29, 2011, PO Longo was interviewed at the CCRB (encl. 8A-D).

PO Longo did enter the building but he never entered the apartment. PO Longo did see § 87(2)(b) from the hallway of the apartment building, but she never tried to speak to him and he never spoke to her. PO Longo never threatened to arrest § 87(2)(b) § 87(2)(b) he never spoke obscenely to her or threatened to kill her son.

Once PO Long and Sgt. Coppola heard over the radio that § 87(2)(b) had jumped off the fire escape into the backyard, PO Longo ran downstairs and into the backyard with Sgt. Coppola.

**Subject Officer: SERGEANT ROBERTO COPPOLA**

- *Sgt. Coppola is a § 87(2)(b).*
- *On December 31, 2010, Sgt. Coppola worked from 7:00 p.m. to 3:47 a.m. the following day, was assigned to mobile response, worked with PO Longo, dressed in uniform and was assigned to a marked police van.*

**Memo Book**

At 1:30 a.m., call for assistance at 152 West 118<sup>th</sup> Street, dispute with a firearm.

**CCRB Testimony**

On April 29, 2011, Sgt. Coppola was interviewed at the CCRB (encl. 9A-D).

Sgt. Coppola was directed by DI Harrison to stand in the outer perimeter of the building and make sure that no person exited or entered the building. Sgt. Coppola never entered the building



or the apartment. He remained outside. Sgt. Coppola was not present when the officers spoke with the female 911 caller. Sgt. Coppola never interacted with § 87(2)(b) or § 87(2)(b). PO Longo did not enter the building and remained with Sgt. Coppola the entire time.

Sgt. Coppola was outside for about an hour when officers radioed that § 87(2)(b) was running in the backyard. Sgt. Coppola ran to the backyard and observed the defendant inside a wooden fence. § 87(2)(b) was surrounded by several officers and Sgt. Coppola pulled out his firearm. PO Zito and DI Harrison were also present in the backyard, but Sgt. Coppola did not know where they came from. Sgt. Coppola did not remember where § 87(2)(b) had run from.

### **Officers not interviewed**

The additional officers who were part of the operation did not witness the allegations and their testimonies would not have altered the recommended disposition.

### **NYPD Documents**

#### **Arrest Report (encl. 10A-D)**

The arrest report notes that the defendant was found in possession of two loaded firearms, a bullet proof vest and ten bags of marijuana.

#### **Property Vouchers (encl. 11A-C)**

The property vouchers note ten bags of marijuana and a bullet proof vest. The vouchers for the firearms are pending and will be added to the case file upon receipt.

§ 87(2)(b)

### **Status of Civil Proceedings (encl. 12A)**

As of May 2, 2011, § 87(2)(b) and § 87(2)(b) have not filed a notice of claim in regard to the incident.

§ 87(2)(b)

### **Civilian CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (encl. 2C-D).

### **Subject Officer CCRB History**

- PO Longo has been a member of the service for 7 years and there is one substantiated CCRB allegation against him. In case #200606906, an abuse of authority allegation (retaliatory summons) was substantiated for which he received instructions. In that same case, a discourteous word and a discourteous action were substantiated for which the Police Department declined to prosecute (encl. 2A).
- DI Harrison has been a member of service for 17 years and there is one substantiated CCRB allegation against him. In case #200306871, an abuse of authority allegation (premises entered and/or searched) was substantiated for which he received a command discipline (encl. 2B).

## Conclusion

### Identification of Subject Officers

- DI Harrison admitted to supervising the entry and search.
- § 87(2)(b) identified PO Longo by looking at the last name, “Longo,” on his badge. She also wrote down PO Longo’s name at the bottom of the consent form. PO Longo fits the description § 87(2)(b) provided of him; he is a white male. Furthermore, although PO Longo testified that he never entered the apartment, DI Harrison testified that PO Longo did enter the apartment.

### Allegations not Pled

§ 87(2)(b) alleged that, when she got on her phone, PO Longo told her to “shut the fuck up” and get off the phone before he arrested her for obstruction of governmental administration. Given that PO Longo’s use of profanity was incident to telling § 87(2)(b) to get off the phone or else be arrested, the discourtesy allegation will be subsumed into Allegation A.

§ 87(2)(b) alleged that the officers drew their guns when they entered. § 87(2)(b) further alleged that two officers pointed their guns at § 87(2)(b)’s bedroom door. These allegations will be subsumed into Allegation B.

§ 87(2)(b) alleged that, when she tried to exit her room to see what was happening, DI Harrison pushed her back so that she did not interfere. Because the officers were attempting to secure the area and ensure the safety of all parties involved, a minimal push would be justifiable and will therefore not be pled.

§ 87(2)(b) alleged that, when PO Zito was referring to a male he arrested a week previously, he told Sgt. Tancredi, “Hey, is this the same motherfucker that spit in my face last week?”

§ 87(2)(b) did not take offense to this language because it was not directed at her. Therefore, this allegation will not be pled.

### Investigative Findings and Recommendations

#### **Allegation A – Abuse of Authority: PO James Longo threatened to arrest § 87(2)(b)**

§ 87(2)(b) testified that, when she got on the phone, PO Longo told her to “shut the fuck up” or else he would arrest her for obstruction of governmental administration. PO Longo and the officers denied this. § 87(2)(g)

#### **Allegation B – Abuse of Authority: DI Harrison supervised the entry and search of § 87(2)(b)**

§ 87(2)(b) in the Bronx.

#### **Allegation D – Abuse of Authority: DI Harrison threatened to arrest § 87(2)(b)**

All parties agree that § 87(2)(b) willingly gave DI Harrison consent to enter her apartment and to enter § 87(2)(b)’s room. All parties agree that the officers drew their guns upon entry. However, § 87(2)(b) and § 87(2)(b) testified that § 87(2)(b) did not willingly give DI Harrison consent to search § 87(2)(b)’s room, and that § 87(2)(b)’s consent was coerced because DI Harrison told her that he would arrest her if she did not cooperate.

DI Harrison denied threatening to arrest § 87(2)(b) he also stated that he could not arrest § 87(2)(b) for any offense. DI Harrison testified that § 87(2)(b) willingly consented to the search of § 87(2)(b)'s room.

Under the emergency doctrine, according to People v. Mitchell, 39 N.Y.2d 173 (1976) (encl. 1A-F) a police officer can enter premises without a warrant to protect individuals in distress. Under the Exigent Circumstances Doctrine, the police can make a warrantless entry into premises where they seek to gather or seize evidence, and to prevent the imminent use of dangerous weapons.

According to People v. Robinson, 144 A.D.2d 960, 534 (1988) (encl. 1G-H), during a preliminary inspection of the premises, the police may seize evidence or contraband that is in plain view. However, an officer cannot seize a package or a bag when there is nothing incriminating in the outward appearance of these items.

The 911 caller clearly identified § 87(2)(b) § 87(2)(b) as the individual who was holding a firearm and who threatened to shoot her. The police had reasonable suspicion that § 87(2)(b) was hiding in § 87(2)(b) and that he was armed and dangerous. Despite the fact that § 87(2)(b) did consent to let the officers enter her apartment and to enter § 87(2)(b)'s room, the officers did not need her consent based on the circumstances.

Following § 87(2)(b)'s arrest, the officers conducted a search of his bedroom. PO Zito testified that he observed, in plain view, the shell of a gun bullet and the butt of a handgun. DI Harrison did not recall this. In addition, while § 87(2)(b) did not see the search, § 87(2)(b) testified that the search consisted of looking in § 87(2)(b)'s dresser and duffle bag. Although the officers would have been justified in confiscating the items in plain view, a full blown search, such as the duffle bag which was searched, would not have been justified without § 87(2)(b)'s consent or without a search warrant.

§ 87(2)(b), § 87(2)(g)

**Allegation C – Abuse of Authority: PO James Longo threatened to use force against § 87(2)(b)**

§ 87(2)(b)

§ 87(2)(b) alleged that PO Longo told her, “If I catch § 87(2)(b) § 87(2)(b) I will kill him.” PO Longo denied interacting with § 87(2)(b) and no officer heard him speak these words. The investigation was unable to determine whether PO Longo threatened to use force against § 87(2)(b)

§ 87(2)(g)

Team: \_\_\_\_\_ :

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date